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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,344	07/18/2003	Bruce M. Ruana	RUANA-002CIA	4786
28661	7590	08/11/2005	EXAMINER	
SIERRA PATENT GROUP, LTD. P O BOX 6149 STATELINE, NV 89449			HOGE, GARY CHAPMAN	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/622,344	RUANA, BRUCE M.	
	Examiner Gary C. Hoge	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 July 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3-8,10-12,14,16-20,23,26 and 27 is/are pending in the application.

4a) Of the above claim(s) 9,21,24 and 25 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-8,10-12,14,16-20,23,26 and 27 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/8/05</u> .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 9, 21, 24 and 25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 28, 2005.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4-8 and 10-12, 14, 16-20, 23, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Safety-Grip* in view of Mencarelli et al. (5,348,360).

*Safety-Grip* discloses the invention substantially as claimed, except that the body is secured to the railing by a zipper connecting its ends, rather than by an adhesive. Mencarelli teaches that it was known in the art to attach a padded hand-grip to an elongated object by using an adhesive. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an adhesive to attach the padded hand-grip disclosed by *Safety-Grip* to the railing, as taught by Mencarelli, in order to keep the grip from slipping on the railing. Regarding claims 3; 10, 14 and 22, the device disclosed by *Safety-Grip* is fabric (claims 3 and 14) bonded to neoprene, which is a synthetic rubber (claims 10 and 22).

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Regarding claims 4-7 and 16-19, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation does not distinguish over the prior art.

Regarding claims 8 and 20, it is not known what type of ink is contemplated for the fabrication of the device disclosed by *Safety-Grip*. However, because it is within the level of ordinary skill of a worker in the art to select from among known materials on the basis of their suitability for the fabrication of a given device, and since a person having ordinary skill in the art would know that conventional ink would be suitable for the fabrication of an indicia of the type shown by *Safety-Grip*, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the indicia disclosed by *Safety-Grip* from conventional ink as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

Regarding claim 15, the stretchable material disclosed by *Safety-Grip* is neoprene. However, because it is within the level of ordinary skill of a worker in the art to select from among known materials on the basis of their suitability for the fabrication of a given device, and since a person having ordinary skill in the art would know that polyester would be suitable for the fabrication of a device of the type shown by *Safety-Grip*, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the device disclosed by *Safety-Grip* from polyester as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

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***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 3, 4-8 and 10-12, 14, 16-20, 23, 26 and 27 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge  
Primary Examiner  
Art Unit 3611

gch